

REMARKS

1.) Claim Amendments

Applicants have (i) canceled claim 2, without prejudice, (ii) amended claims 4-5 and 12-14 and (iii) added claims 15-17 to further claim the invention. Support for the amendments and new claims can be found, for example, on **page 5, lines 20-30** of the present patent application. Accordingly, claims 4-5 and 12-17 are pending in the present patent application. Favorable reconsideration of the application is respectfully requested in view of the foregoing amendments and the following remarks.

2.) Claim Rejections – 35 U.S.C. § 102

Claims 2, 4, 12 and 14 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,700,902 issued to Meyer (hereinafter "Meyer"). To support such rejection, Meyer must disclose every element of the invention as claimed. More particularly, "a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). With the above requirement in mind, Applicants respectfully submit that Meyer fails to disclose every element of the invention as specified in each amended independent claim.

Turning first to Meyer, it generally discloses a process regarding how data packets are transferred between first and second devices such as devices 10 and 20 of Meyer. In that process, a **data packet size** is determined and such determination is finished if the device receiving data sends an acknowledgement to the other device indicating it has received such data associated with a particular determined data packet size. *Column 13, lines 13 – 35*. After the **acknowledgment** is received and there is still additional data to be transferred, the additional data "is transferred at the **same data packet size** until all the data has been delivered." *Column 13, lines 36 – 43*.

Regarding claim 2, it has been canceled, without prejudice and thus its rejection is moot.

Regarding the amended independent claim 4, it comprises an element specifying "generating a second segment of time sensitive information having a segment size less than or

equal to said maximum segment size upon the receipt of an acknowledgment message from said receiver, wherein the first segment size is different from the second segment size.” More specifically, once the acknowledgment is received, the apparatus of claim 4 generates a second segment of time sensitive information having a size that is **different** from the first segment size. In contrast, once the acknowledgment is received, Meyer continues to generate segments of data having a size that is the **same** as the initially determined data packet size.

Accordingly, claim 4 is not anticipated by and believed to be patentably distinguishable over Meyer.

Regarding the amended independent claims 12 and 14, each of them comprises at least one limitation that is similar to at least one limitation of claim 5, which is believed to be patentable. Accordingly, claims 12 and 14 are not anticipated by and believed to be patentably distinguishable over Meyer for reasons similar to those discussed above regarding claim 2.

3.) Claim Rejections – 35 U.S.C. § 103

Claim 5 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Meyer in view of U.S. Patent No. 6,434,140 issued to Barany et al. (hereinafter “Barany”). Claim 5 depends from independent claim 4, which is believed to be patentable, and thus it should also be non-obvious and patentably distinguishable over the cited prior art references. *MPEP 2143.03.*

Claim 13 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Meyer. In response, Applicants have amended claim 13. Also, claim 13 comprises elements that are similar to elements of claim 12, which is believed to be patentably distinguishable over Meyer based on the above discussion. Accordingly, claim 13 should also be non-obvious and patentably distinguishable over Meyer. *MPEP 2143.03.*

4.) Claim Rejections – 35 U.S.C. § 101

Claim 13 stands rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. In response, Applicants have amended claim 13 and the current claimed invention should be directed to statutory subject matter. *See, e.g., In re Beauregard, 53 F.3d 1583, 35 USPQ2d 1383 (Fed. Cir. 1995).*

CONCLUSION

Claims 4-5 and 12-17 are presently standing in this patent application. In view of the foregoing remarks, each and every point raised in the Office Action mailed on August 21, 2006 has been addressed on the basis of the above remarks. Applicants believe all of the claims currently pending in this patent application to be in a condition for allowance. Reconsideration and withdrawal of the rejections are respectfully requested. However, should the Examiner believe that direct contact with Applicants' attorney would advance the prosecution of the application, the Examiner is invited to telephone the undersigned at the number given below.

Respectfully submitted,

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